

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2395

Introduced by Assembly Member Low

February 18, 2016

An act to ~~amend Section 372 of~~ *add Section 711 to* the Public Utilities Code, relating to ~~electrical restructuring~~: *telecommunications*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2395, as amended, Low. ~~Electrical restructuring: cogeneration. Telecommunications: replacement of public switched telephone network.~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law, until January 1, 2020, prohibits the commission from regulating Voice over Internet Protocol and Internet Protocol enabled service (IP enabled service), as defined, except as required or delegated by federal law or expressly provided otherwise in statute.

This bill would require a telephone corporation that is transitioning to IP enabled services and networks to complete a customer education and outreach program explaining the transition from legacy public switched telephone network services regulated by the commission to IP enabled services, the benefits and advantages of IP enabled services, a description of the advanced services available to consumers, and information regarding the projected timeframes for the transition, including that withdrawal of any voice grade single-line telephone service will not take place prior to January 1, 2020. The bill would prohibit a telephone corporation from withdrawing any voice grade single-line telephone services without first giving prior notice to the commission certifying (1) that the telephone corporation has completed

the education and outreach program, and (2) that an alternative voice service is available for the affected customers in the affected area. The bill would require the commission to conduct a technical review to confirm that the replacement service has specified elements. Upon completion of these steps, but no sooner than January 1, 2020, the bill would authorize a telephone corporation to elect to discontinue legacy telephone service upon providing not less than 90-days' notice to the affected customers and to the commission, as specified. The bill would authorize a customer of the telephone corporation, within 30 days after receipt of the notice of withdrawal of legacy voice service to petition the commission to review the availability of the alternative service at the customer's location. The bill would require the commission to issue an order disposing of the petition not later than 60 days after its filing. The bill would authorize the commission, if it determines after investigation that no alternative service is available to that customer at the customer's location, to attempt to identify a willing provider of voice service to serve the customer, and if no willing provider is identified, to order the withdrawing telephone corporation to provide voice service to the customer for a period no longer than 12 months after withdrawal. The bill would require the commission to establish a universal connectivity program by September 1, 2019, to ensure that those customers for whom the commission has ordered the withdrawing telephone corporation to provide voice services for the 12-month period will continue to have voice service available after that period.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill are within the act and require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Provisions of the Public Utilities Act restructuring the electrical services~~

~~industry state the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth.~~

~~This bill would make nonsubstantive changes to the policy of the state relative to cogeneration.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *California continues to be the world's advanced technology*
4 *leader, the center of the innovation economy, and a pioneer in*
5 *clean and sustainable technology. The state must adopt a strategy*
6 *to build our digital infrastructure while retiring outdated*
7 *technology. The transition from 20th century traditional*
8 *circuit-switched and other legacy telephone services to 21st century*
9 *next-generation Internet Protocol (IP) networks and services is*
10 *taking place at an extraordinary pace. A significant majority of*
11 *Californians have already transitioned to upgraded*
12 *communications services such as high-speed Internet, Voice over*
13 *Internet Protocol (VoIP), and mobile telephony services.*

14 (b) *Between 1999 and 2015, California witnessed an estimated*
15 *85 percent decline in landlines providing legacy telephone services*
16 *and relying on dated technology. At the same time, consumer*
17 *adoption of advanced services over IP-based networks has*
18 *continued to grow. Californians have quickly adopted new*
19 *technologies to communicate. More than 9 out of 10 Californians*
20 *use a smartphone or other mobile devices, 86 percent use the*
21 *Internet, and there are over 5.7 million VoIP subscriptions. As of*
22 *2014, approximately 6 percent of Californians resided in*
23 *households with only a landline, a 44 percent decline from 2010.*

24 (c) *So many California consumers have made this transition so*
25 *quickly because IP-based services offer greater functionality than*
26 *legacy phone service. The gap will only widen with the continuing*
27 *integration of IP networks with cloud computing and the Internet*
28 *of Things. The policy of the state is to help all Californians*
29 *transition to advanced and clean technologies and services so that*

1 everyone, including low-income, senior, and rural communities,
2 can benefit from and participate fully in 21st century modern life.

3 (d) The legacy telephone network is outdated, underutilized,
4 and carbon-unfriendly when compared to the IP network. Vital
5 economic, educational, health, and civic opportunities, including
6 online learning, telemedicine, remote working, e-government
7 services, and public safety, are not optimized on the outdated
8 network. The transition from older, dated technologies to newer,
9 more advanced technologies is nearly complete, and at some point
10 in the not-too-distant future it will no longer be economically
11 viable or environmentally sound to maintain legacy networks and
12 services. The consumer demand will not be there, the economics
13 will not support it, and the associated environmental burden will
14 be disproportionate to its long past benefits.

15 (e) Recent studies show that transitioning from a legacy switched
16 network to an all IP network can reduce energy costs by as much
17 as 70 percent, reduce water use for cooling by as much as 70
18 percent, and reduce emissions of greenhouse gases by as much as
19 40 percent. IP services themselves provide even further benefits,
20 including reduced fuel and electricity use through smart logistics
21 and telematics for efficient traffic and route management, and
22 automated monitoring of energy use related to lighting and climate
23 control. IP-based technologies, including remote water leakage
24 detection and control and smart irrigation solutions for agriculture,
25 may also serve to enable efficient use of water by consumers.

26 (f) (1) This act will provide a path for the telecommunications
27 industry to make significant contributions toward the state's goals
28 for energy use and emissions of greenhouse gases, as set forth in
29 the California Global Warming Solutions Act of 2006 (Division
30 25.5 (commencing with Section 38500) of the Health and Safety
31 Code) and the Clean Energy and Pollution Reduction Act of 2015
32 (Chapter 547 of the Statutes of 2015).

33 (2) This act will establish state policy for a clearly
34 communicated, planned, and orderly transition from outdated
35 technology to cleaner advanced technologies, so that continuity
36 of service for consumers and businesses is ensured, while
37 maintaining safeguards to preserve universal connectivity.

38 (3) This act will ensure that the advanced services replacing
39 legacy services provide quality voice service and access to

1 *emergency communications as part of a 21st century policy*
2 *framework.*

3 *(4) This act will ensure that advanced services are available to*
4 *replace legacy services before the transition, so that all*
5 *Californians are able to benefit from the opportunities presented*
6 *by advanced technologies and services.*

7 *SEC. 2. Section 711 is added to the Public Utilities Code, to*
8 *read:*

9 *711. (a) A telephone corporation transitioning to IP-enabled*
10 *services and networks shall complete a customer education and*
11 *outreach program explaining the IP transition, its benefits and*
12 *advantages, including the environmental benefits and advantages,*
13 *and a description of the advanced services available to consumers.*
14 *The customer education and outreach program shall also include*
15 *information regarding the projected timeframes for the transition,*
16 *including the fact that the withdrawal of any voice grade single-line*
17 *telephone service will not take place prior to January 1, 2020.*

18 *(b) A telephone corporation planning to discontinue any voice*
19 *grade single-line telephone service shall first give prior notice to*
20 *the commission certifying both of the following:*

21 *(1) The telephone corporation has completed the education and*
22 *outreach program prescribed in subdivision (a).*

23 *(2) An alternative voice service is available for the affected*
24 *customers in the affected area.*

25 *(c) Upon receipt of the notice to withdraw, the commission shall*
26 *conduct a technical review to confirm that the alternative service*
27 *has all of the following elements:*

28 *(1) Voice grade access to the public switched telephone network*
29 *or its successor.*

30 *(2) Real-time, two-way voice communications.*

31 *(3) Access for end users of those services to the local emergency*
32 *telephone systems described in the Warren-911-Emergency*
33 *Assistance Act (Article 6 (commencing with Section 53100) of*
34 *Chapter 1 of Part 1 of Division 2 of Title 5 of the Government*
35 *Code), and where available, enhanced 911 access.*

36 *(4) Alternative services that require a residential power supply*
37 *to operate shall also provide backup-battery capability consistent*
38 *with the standard established by the Federal Communications*
39 *Commission.*

1 (d) *The commission's technical review shall be limited to the*
2 *determination of whether the alternative service has the elements*
3 *set forth in subdivision (c) and shall be completed within 120 days*
4 *from receipt of notice from the telephone corporation pursuant to*
5 *subdivision (b). If the commission fails to complete its technical*
6 *review within 120 days from receipt of notice, the telephone*
7 *corporation will be conclusively presumed to have complied with*
8 *the requirements of subdivisions (b) and (c).*

9 (e) *Upon completion of the requirements of subdivisions (b),*
10 *(c), and (d) for voice grade single-line services, but no sooner than*
11 *January 1, 2020, a telephone corporation may elect to discontinue*
12 *any legacy telephone service, upon giving no less than 90-days'*
13 *prior notice to the affected customers and to the commission. If*
14 *the discontinuance of legacy telephone service includes voice grade*
15 *single-line services, the notice shall include information regarding*
16 *the availability of an alternative service as verified by the*
17 *commission in the technical review, how to petition the commission*
18 *for review of the availability of the alternative service at the*
19 *customer's location, and any environmental benefit that will come*
20 *with the discontinuance of legacy services and the migration to*
21 *alternative services. During the notice period, the telephone*
22 *corporation shall continue to provide the legacy telephone service*
23 *to the affected customers, except a customer that disconnects or*
24 *changes the features of the service, but shall have no obligation*
25 *to provide the legacy telephone service to any new customers in*
26 *the affected area.*

27 (f) *Notwithstanding Section 710, within 30 days after receipt of*
28 *a telephone corporation's notice of withdrawal of legacy voice*
29 *service, a customer may petition the commission to review the*
30 *availability of the alternative service at the customer's location.*
31 *The commission shall issue an order disposing of the petition not*
32 *later than 60 days after the filing of the petition. If the commission*
33 *determines after an investigation that no alternative service is*
34 *available to the customer at the customer's location, the*
35 *commission shall attempt to identify a willing provider of voice*
36 *service to serve the customer. If no willing provider is identified,*
37 *the commission may order the withdrawing telephone corporation*
38 *to provide voice service to the customer at the customer's location*
39 *for a period no longer than 12 months after withdrawal. The willing*
40 *provider or the withdrawing telephone corporation may utilize*

1 any technology or service arrangement to provide the voice
2 services as long as it meets the requirements of subdivision (c).

3 (g) By September 1, 2019, the commission shall establish a
4 universal connectivity program to ensure that those customers for
5 whom the commission has ordered the withdrawing telephone
6 corporation to provide voice services for the 12-month period in
7 subdivision (f) will continue to receive voice service.

8 (h) Nothing in this section grants the commission jurisdiction
9 or control over an alternative service except as specifically set
10 forth in this section.

11 (i) Nothing in this section affects a telephone corporation's
12 ability to withdraw services under any other law.

13 SEC. 3. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

22 SECTION 1. ~~Section 372 of the Public Utilities Code is~~
23 ~~amended to read:~~

24 ~~372. (a) It is the policy of the state to encourage and support~~
25 ~~the development of cogeneration as an efficient, environmentally~~
26 ~~beneficial, competitive energy resource that will enhance the~~
27 ~~reliability of local generation supply, and promote local business~~
28 ~~growth. Subject to the specific conditions provided in this section,~~
29 ~~the commission shall determine the applicability to customers of~~
30 ~~uneconomic costs as specified in Sections 367, 368, 375, and 376.~~
31 ~~Consistent with this state policy, the commission shall provide~~
32 ~~that these costs shall not apply to any of the following:~~

33 ~~(1) To load served onsite or under an over-the-fence arrangement~~
34 ~~by a nonmobile self-cogeneration or cogeneration facility that was~~
35 ~~operational on or before December 20, 1995, or by increases in~~
36 ~~the capacity of a facility to the extent that the increased capacity~~
37 ~~was constructed by an entity holding an ownership interest in or~~
38 ~~operating the facility and does not exceed 120 percent of the~~
39 ~~installed capacity as of December 20, 1995, provided that before~~
40 ~~June 30, 2000, the costs shall apply to over-the-fence arrangements~~

1 entered into after December 20, 1995, between unaffiliated parties.
2 For the purposes of this subdivision, “affiliated” means a person
3 or entity that directly, or indirectly through one or more
4 intermediaries, controls, is controlled by, or is under common
5 control with another specified entity. “Control” means either of
6 the following:

7 (A) The possession, directly or indirectly, of the power to direct
8 or to cause the direction of the management or policies of a person
9 or entity, whether through an ownership, beneficial, contractual,
10 or equitable interest.

11 (B) Direct or indirect ownership of at least 25 percent of an
12 entity, whether through an ownership, beneficial, or equitable
13 interest.

14 (2) To load served by onsite or under an over-the-fence
15 arrangement by a nonmobile self-cogeneration or cogeneration
16 facility for which the customer was committed to construction as
17 of December 20, 1995, provided that the facility was substantially
18 operational on or before January 1, 1998, or by increases in the
19 capacity of a facility to the extent that the increased capacity was
20 constructed by an entity holding an ownership interest in or
21 operating the facility and does not exceed 120 percent of the
22 installed capacity as of January 1, 1998, provided that before June
23 30, 2000, the costs shall apply to over-the-fence arrangements
24 entered into after December 20, 1995, between unaffiliated parties.

25 (3) To load served by existing, new, or portable emergency
26 generation equipment used to serve the customer’s load
27 requirements during periods when utility service is unavailable,
28 provided the emergency generation is not operated in parallel with
29 the integrated electric grid, except on a momentary parallel basis.

30 (4) After June 30, 2000, to a load served onsite or under an
31 over-the-fence arrangement by a nonmobile self-cogeneration or
32 cogeneration facility.

33 (b) Further, consistent with state policy, with respect to
34 self-cogeneration or cogeneration deferral agreements, the
35 commission shall do the following:

36 (1) Provide that a utility shall execute a final self-cogeneration
37 or cogeneration deferral agreement with a customer that, on or
38 before December 20, 1995, had executed a letter of intent (or
39 similar documentation) to enter into the agreement with the utility,
40 provided that the final agreement shall be consistent with the terms

1 and conditions set forth in the letter of intent and the commission
2 shall review and approve the final agreement.

3 ~~(2) Provide that a customer that holds a self-cogeneration or~~
4 ~~cogeneration deferral agreement that was in place on or before~~
5 ~~December 20, 1995, or that was executed pursuant to paragraph~~
6 ~~(1) in the event the agreement expires, or is terminated, may do~~
7 ~~any of the following:~~

8 ~~(A) Continue through December 31, 2001, to receive utility~~
9 ~~service at the rate and under terms and conditions applicable to~~
10 ~~the customer under the deferral agreement that, as executed,~~
11 ~~includes an allocation of uneconomic costs consistent with~~
12 ~~subdivision (e) of Section 367.~~

13 ~~(B) Engage in a direct transaction for the purchase of electricity~~
14 ~~and pay uneconomic costs consistent with Sections 367, 368, 375,~~
15 ~~and 376.~~

16 ~~(C) Construct a self-cogeneration or cogeneration facility of~~
17 ~~approximately the same capacity as the facility previously deferred,~~
18 ~~provided that the costs provided in Sections 367, 368, 375, and~~
19 ~~376 shall apply consistent with subdivision (e) of Section 367,~~
20 ~~unless otherwise authorized by the commission pursuant to~~
21 ~~subdivision (e).~~

22 ~~(3) Subject to the firewall described in subdivision (e) of Section~~
23 ~~367, provide that the ratemaking treatment for self-cogeneration~~
24 ~~or cogeneration deferral agreements executed before December~~
25 ~~20, 1995, or executed pursuant to paragraph (1) shall be consistent~~
26 ~~with the ratemaking treatment for the contracts approved before~~
27 ~~January 1995.~~

28 ~~(e) The commission shall authorize, within 60 days of the receipt~~
29 ~~of a joint application from the serving utility and one or more~~
30 ~~interested parties, applicability conditions as follows:~~

31 ~~(1) The costs identified in Sections 367, 368, 375, and 376 shall~~
32 ~~not, before June 30, 2000, apply to load served onsite by a~~
33 ~~nonmobile self-cogeneration or cogeneration facility that became~~
34 ~~operational on or after December 20, 1995.~~

35 ~~(2) The costs identified in Sections 367, 368, 375, and 376 shall~~
36 ~~not, before June 30, 2000, apply to a load served under~~
37 ~~over-the-fence arrangements entered into after December 20, 1995,~~
38 ~~between unaffiliated entities.~~

1 ~~(d) For the purposes of this subdivision, all onsite or~~
2 ~~over-the-fence arrangements shall be consistent with Section 218~~
3 ~~as it existed on December 20, 1995.~~
4 ~~(e) To facilitate the development of new microcogeneration~~
5 ~~applications, electrical corporations may apply to the commission~~
6 ~~for a financing order to finance the transition costs to be recovered~~
7 ~~from customers employing the applications.~~
8 ~~(f) To encourage the continued development, installation, and~~
9 ~~interconnection of clean and efficient self-generation and~~
10 ~~cogeneration resources, to improve system reliability for consumers~~
11 ~~by retaining existing generation and encouraging new generation~~
12 ~~to connect to the electric grid, and to increase self-sufficiency of~~
13 ~~consumers of electricity through the deployment of self-generation~~
14 ~~and cogeneration, both of the following shall occur:~~
15 ~~(1) The commission and the Electricity Oversight Board shall~~
16 ~~determine if a policy or action undertaken by the Independent~~
17 ~~System Operator, directly or indirectly, unreasonably discourages~~
18 ~~the connection of existing self-generation or cogeneration or new~~
19 ~~self-generation or cogeneration to the grid.~~
20 ~~(2) If the commission and the Electricity Oversight Board find~~
21 ~~that a policy or action of the Independent System Operator~~
22 ~~unreasonably discourages the connection of existing self-generation~~
23 ~~or cogeneration or new self-generation or cogeneration to the grid,~~
24 ~~the commission and the Electricity Oversight Board shall undertake~~
25 ~~all necessary efforts to revise, mitigate, or eliminate that policy or~~
26 ~~action of the Independent System Operator.~~